

Alaska Department of Environmental Conservation

And

Environmental Protection Agency

State Fiscal Year 2013

July 1, 2013 – June 30, 2014

Received from Gary Mendivil 5.21.13 – working draft Sharon Morgan 6.8.13

**WORKING DRAFT FOR DISCUSSION**

This Agreement constitutes the State of Alaska's relationship with the United States Environmental Protection Agency ~~(EPA)~~ under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation ~~(DEC)~~ enters ~~the this Agreement agreement~~ for the State of Alaska with EPA Region 10, for state fiscal year 2014 (July 1, 2013 – June 30, 2014).

This Agreement describes the expected work and performance results for each of the agencies. The Performance Partnership Agreement ~~(PPA)~~ is an important tool that strengthens the protection of the environment by encouraging flexibility to focus on the activities that achieve the best environmental results consistent with the missions and authorities of each agency.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Larry Hartig, Commissioner  
Alaska Department of Environmental Conservation

DATE: \_\_\_\_\_

\_\_\_\_\_  
Dennis McLerran, Regional Administrator  
U.S. Environmental Protection Agency, Region 10

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## I. Introduction and Purpose

The National Environmental Performance Partnership System is a framework designed to achieve better environmental results by focusing the capacities and resources of the Environmental Protection Agency (EPA) and ~~States-states~~ to jointly address the most pressing environmental problems. Common goals, priorities, and strategies are based on information about environmental conditions, and progress is evaluated based on results actually achieved in the environment. Performance Partnership Agreements (PPA), through which EPA and states set priorities and design strategies, are intended to strengthen protection of the environment by focusing resources on agreed upon environment protection goals.

This State Fiscal Year (SFY) 2014 PPA describes the overlapping missions of the Department of Environmental Conservation (DEC) and EPA for protecting Alaska's environment. ~~The-This~~ Agreement describes how each agency will work together to achieve joint priorities and performance expectations in order to address Alaska's most important environmental and public health protection issues.

- The purpose of ~~the this Agreement agreement~~ is to establish mutual priorities and performance expectations for both agencies during SFY 2014.

This Agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities for the period July 1, 2013 – June 30, 2014.

## II. Missions

DEC and EPA Region10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:

Protect human health and the environment.

EPA Region 10 Mission:

Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

### III. Agreement Coverage

This Agreement is based on the National Environmental Performance Partnership System (NEPPS) and EPA's Office of Congressional and Intergovernmental Relations ~~(OCIR)~~ NEPPS National Program Guidance, which allows states flexibility to address their highest environmental priorities and establish resource allocations based on those priorities. This Agreement includes DEC and EPA Region 10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this ~~agreement~~ Agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

In addition to this Agreement, the State of Alaska receives two Partnership Performance Grants [PPGs], which include specific workplan commitments for water quality programs, and radon and air quality programs. The purpose of the PPGs is to reduce the administrative burden by consolidating several grants into one and to increase the flexibility of DEC to move resources within the air and radon programs, and within the water quality programs, to meet Alaska's highest environmental needs. ~~Those~~ The PPGs are included as an appendix to the final ~~agreement~~ Agreement.

As explained in the draft NEPPS FY 2014 Guidance, "It is important to note that once grants are combined in a PPG, funds do not have to be tracked by the original program source." PPG expenditures should be focused on negotiated priorities using funding methods and work plans developed by the state and approved by EPA. At the end of the year, DEC is not expected under this Agreement to account for how PPG funding has been allocated by the original funding program source.

**Commented [srm1]:** Paragraph deleted from FY13 PPA. Sharon restored language based on:  
1) 2013 guidance: NEPPS goal III, objective 5.  
2) 2014 draft guidance: NEPPS, National Area of Focus III, Activity 1.

### IV. State of Alaska

Alaska is different from the other EPA Region 10 states. Alaska is the nation's only arctic state, with environmental issues more common to Russia, Finland, Sweden, Norway, Greenland, and Canada than to other states. Alaska is also the largest ocean state in the country and its oceans include the North Pacific Ocean, and the Bering, Chukchi, and Beaufort Seas. Alaska has 33,904 miles of shoreline – twice the length of all the other states combined. The estimated tidal shoreline, including islands, inlets and shoreline to head of the tidewater, is 47,300 miles. Alaska occupies 20% of the nation's land base, 40% of the nation's surface water, and contains half the nation's wetlands.

Alaska has vast proven and unexplored natural resources. Alaska oceans and coastal watersheds produce 10% of the nation's oil, over 50% of the nation's seafood, and minerals from several world-class mines, including the world's largest operating zinc mine and the largest producer of silver in the United States.

The unique regional qualities of Alaska's ocean and watershed resources are also reflected in their quality. Alaska's resources, for the most part, are healthy, productive, and relatively pollution-free. The EPA's most recent report on the condition of the nation's coast concludes that, "Alaska's coastal resources are generally in pristine condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States."

Most of Alaska's communities are isolated, small, and can only be reached by air or water. There is no statewide power grid, so most Alaska communities depend on energy produced from individual community diesel generators. Alaska is also the home of 229 federally recognized tribes in Alaska – over 40 percent of the nation's total number of tribes.

Alaska's state resource and public health protection agencies are actively pursuing appropriate forums for coordinating with their federal agency counterparts on environmental and public health protection issues of mutual concern.

## V. **Priorities**

### 1. **Timely Communication on Controversial Projects/Issues.**

DEC and EPA shall encourage effective and timely communication on large or controversial projects.

DEC and EPA will:

- Designate for specific mining and oil and gas projects, **EPA-Project Managers** or Team leads who will serve as a primary point of contact for **EPA-the agencies** to meet and review the status of ongoing projects, schedules and issues. Mining and Oil and Gas sector managers will meet on a routine basis to review status of major projects, discuss federal and state legal and policy requirements, and identify any issues needing resolution.
- Maintain communication as needed throughout the year to facilitate the resolution of mutual concern that might arise in Alaska regarding toxic release inventory (TRI) reporting and data use.
- Identify high priority 404 Program projects that need special coordination.

#### **Commented [srm2]:** QUESTIONS

1. Should 404 program be its own numbered priority or be a sub bullet under #1?

2. Should CWA § 319(h) Grant Management for AK's NPS Program be its own numbered priority or a sub bullet under Section 5. Division of Water, E. NPS?

**Commented [srm3]:** Both agencies should do this, as this bullet is under "DEC and EPA will:"

DEC will:

- Identify a point of contact for the state ~~for coordinating to~~ coordinate high priority 404 Program projects that need special coordination.
- Identify a point of contact to coordinate the state's assuming primacy of the 404 Program and keep EPA informed of that process.

**Commented [srm4]:** Should 404 be its own lettered section under section V. Division of Water and include DEC and EPA commitments?

EPA will:

- Continue to provide technical assistance including review and comments for TRI documents and brochures to help Alaska educate its citizens on TRI. Prior examples of this assistance include the "Guide to the Toxics Release Inventory for Alaska" and "Factors to Consider when Using TRI Data".
- Maintain timely notice of activities from EPA headquarters and Region 10 including proposed rulemaking changes that may affect Alaska.
- Maintain timely and open communication with DEC about potential 404 permitting decisions and National Environmental Policy Act (NEPA) actions that could adversely affect the State of Alaska.
- Identify a point of contact to coordinate the State's assuming primacy of the 404 Program.

**Commented [srm5]:** See comment SRM5

## 2. **Oil & Gas Coordination**

Oil and gas exploration in the Alaska onshore and offshore as well as Outer Continental Shelf (OCS) is continuing increasing and may ultimately result in new development and production activities. ~~Currently, EPA is the water permitting authority for OCS sources and for NPDES permits related to oil and gas into state offshore waters until NPDES Phase 4 delegation is complete.~~ Because of current and future shared permitting responsibilities, DEC and EPA will need to continue to develop and define roles and approaches for permit development and compliance activities. EPA and DEC will meet quarterly, or on an as needed basis, to coordinate oil and gas issues and actions of mutual interest. Oil and gas managers will brief senior managers on the status of major projects, discuss federal and state legal and policy requirements, and identify any programmatic issues needing resolution or work group development.

**Commented [srm6]:** Sharon received edits from Hahn Shaw on 6/4/13. This section reflects those edits with the exception of incorporating language pertaining to Division of Water at section V.5.B

### Air Permitting

In December 2011, Congress transferred authority for air pollution control in the Arctic OCS from EPA to the Department of Interior's Bureau of Ocean Energy

Management (BOEM), except for pending or existing permits. Under this exemption, EPA retains responsibility for implementing and enforcing the existing air permits for Shell. EPA also retains authority for air quality permitting on the OCS off Cook Inlet and elsewhere in Alaska.

Commented [srm7]: From Hanh Shaw.

### 3. Rural Alaska Environmental Challenges

In order to improve environmental conditions in rural Alaska, DEC and EPA Region 10 will work to improve collaborative strategic planning efforts with Tribes in Alaska. A key component of meeting common goals is communication on a regular basis between EPA, DEC, and Alaska Tribes about technical assistance, educational, and funding opportunities so that information can be compiled and passed along to Tribes. It will be our goal to create opportunities for partnerships between DEC, EPA, and the Alaska Tribes.

DEC has identified several environmental issues that are specific to rural Alaska, including the effects of long-term exposure to the exhaust from the diesel generators that provide electrical power to nearly all of the rural villages, fine and coarse particle dust pollution in rural communities, and sustainable operation and maintenance of village sanitation projects. EPA has seen increasing evidence that burning of solid waste in burn barrels, and at open dumps or landfills may be posing significant health risk to Alaska tribal communities.

The EPA has a government to government relationship with, and trust responsibility to tribes. EPA Region 10 will continue to work in partnership and consultation with all federally recognized tribes. EPA recognizes that tribes have the authority to set their own environmental priorities and will continue to work with tribes in a manner that acknowledges tribal sovereignty and self-determination. In implementing the Indian Environmental General Assistance Program (IGAP), EPA works to build tribal environmental capacity and adequate internal mechanisms to help tribes improve environmental protection. The IGAP provides grants to Tribes for the purpose of developing their capacity to develop and implement environmental protection programs. IGAP resources may also be used to implement solid and hazardous waste programs. In light of the unique solid waste challenges facing Alaska Native Villages, EPA Region 10 will continue to utilize the implementation authority provided under IGAP to assist tribes in the development and implementation of integrated waste management programs. In parallel, the Region 10 Office of Air, Waste and Toxics, Tribal Solid and Hazardous Waste Management Program, will continue to provide tribal solid waste assistance through the RuralCAP hosted Senior Environmental Employee.

Under Alaska's federally recognized constitution, Alaska Natives and members of Alaska's federally recognized tribes have all the rights and responsibilities of Alaska citizenship. Under state law, DEC serves the interests of all Alaskans as represented by the state's elected officials.

**Commented [srm8]:** What is the purpose of this paragraph?

The EPA Tribal Solid and Hazardous Waste Program's goals are to support programs to prevent hazardous materials from entering Alaska's waste stream and to collaborate with DEC to provide technical assistance which results in safer waste management practices in Alaska Tribal communities. -The Region 10 Tribal Air Team works collaboratively with DEC, Tribes and other partners to increase understanding and support strategies to address the causes and prevention of air pollution in rural Alaska.

EPA and DEC will:

- Continue to hold quarterly teleconferences to discuss tribal environmental and waste management issues.
- Continue to support regular teleconference calls with tribal environmental professionals, DEC, and other partners, to raise awareness and share possible response strategies to air pollution from residential wood heating, road dust, solid waste burning, diesel emissions, and indoor air.
- Participate in the Alaska Forum on the Environment (AFE) and other appropriate venues to better communicate with tribes and other partners on solid waste and air-related initiatives and topics relevant to rural Alaska and tribal communities.

- ~~Work collaboratively to evaluate the CWA 301(h) waiver facilities.~~

**Commented [srm9]:** Not DEC's job. These facilities are under EPA jurisdiction.

- Continue to help tribes to take steps to bring their open dumps into compliance with State of Alaska solid waste regulations and to reduce health impacts from any solid waste burning practices. For example, we will continue to conduct joint site visits to provide interested tribes with technical assistance and offer Rural Alaska Solid Waste Landfill Operator training.
- Continue to pursue collaboration with state, federal and tribal agencies and organizations to support mitigation of road dust pollution to raise the capabilities of rural tribal communities to access available funding, resources and information to work with their partners to effectively mitigate coarse particulate pollution (PM10) to levels in compliance with the NAAQS and safer to public health.



- Work collaboratively with tribes and other federal, state and local agencies and organizations to find the most effective partnerships that will support solutions to air quality concerns related to wood smoke, solid waste burning, diesel emissions, and road dust.
- Work together on air quality issues associated with open burning in dumps, burn barrels, or any other solid waste burning. DEC Air Quality staff will provide technical assistance to EPA staff including outreach and education activities.
- Collaborate through regular communication on work with tribal communities for increased air quality monitoring data, for support of conference calls with tribes on air pollution concerns, and for other opportunities to provide more effective information and support to tribes to better understand and address the air pollution sources within their communities.

DEC will:

- Provide the EPA Office of Air Waste and Toxics Tribal Solid and Hazardous Waste Program Database coordinator, with current information on the names of Alaska villages with Class III permits.
- Provide EPA Tribal Solid and Hazardous Waste Program with updates on the status of its Alaska Waste Erosion and Review (WEAR) Project. The WEAR Project is designed to develop an inventory of contaminated sites, landfills, and dumps in Northern Alaska, Western Alaska and parts of the Aleutian Islands, and; determine associated risks and mitigation plans for the same. The project will occur from 2011 through 2015, and is anticipated to include 95-100 villages, and uses \$1.4 million in funding from the BOEMRE Coastal Impact Assistance Program (CIAP).
- Partner with EPA to mitigate WEAR sites, where practical.

EPA will:

- Evaluate status of facilities with CWA §301(h) waiver.
- Collaborate with the DEC and the Alaska Area Indian Health to keep the open dumps inventory (which is stored in the Indian Health Service Web Sanitation Tracking and Reporting System [WSTARS] national database) current.
- Identify dump sites that are being threatened by erosion, flooding and permafrost melting due in whole or part to climate change.

Commented [srm10]: EPA – keep this?

- Convene quarterly meetings with DEC to discuss waste management options for those tribal open dumps which are threatened by erosion, flooding or permafrost melting caused in whole or part by climate change. These dialogues will be in conjunction with the DEC Alaska Waste Erosion and Review (WEAR) project.
- Partner with the DEC Brownfield program to support their outreach to Rural Communities.
- Invite experts from both DEC and EPA to share information with Tribal IGAP grantees on air quality issues and their potential impact on human health, such as dust, mold, wood smoke, diesel emissions, climate change, children's environmental health, and other relevant issues.

#### 4. **Compliance and Enforcement**

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in “Indian Country” in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state’s environmental laws and delegated federal environmental and public health protection programs. It is essential that EPA and DEC coordinate enforcement and compliance with each other.

EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC’s Enforcement Manual; (2) the November 2006 Compliance Assurance Agreement between DEC’s Air Permits Program and the EPA Office of Air; (3) the Compliance and Enforcement Strategy between DEC’s Drinking Water Program and EPA Region 10’s Office of Water and Watersheds Drinking Water Unit; and (4) the National Pollutant Discharge Elimination System Memorandum of Agreement between the State of Alaska and United States Environmental Protection Agency, Region 10 (Amended August 11, 2011).

The State Review Framework (SRF) is EPA’s national tool for evaluating performance in the Clean Air Act (CAA) Stationary Sources, Clean Water Act (CWA) National Pollutant Discharge Elimination System, and Resource Conservation and Recovery Act (RCRA) Subtitle C compliance and enforcement programs. The SRF was developed to promote consistent levels of activity and oversight in state and regional enforcement programs and consistent levels of environmental protection across the country. In 2013 - 2014 DEC’s CWA and CAA compliance and enforcement programs will be evaluated under the SRF process using data from 2012.

DEC will:

**Commented [srm11]:** Section provided by Christine Kelley on 6.5.13 and slightly revised by Sharon M for consistency.

- Participate in the SRF assessment scheduled for 2013-2014.
- Work with EPA to implement recommendations and address areas that need attention as identified in the SRF reports.
- Conduct annual data verifications of DEC compliance and enforcement data in AFS and Integrated Compliance Information System-NPDES data systems during timeframe designated by Office of Enforcement and Compliance Assurance.

Commented [srm12]: Acronym?

EPA will:

- Provide timely information on SRF guidance, training, and process.
- Develop annual data metric analyses (DMAs) based on the data following the data verification period. ~~The DMAs will be completed by September 30 of each year and subsequently shared and discussed with DEC.~~

Commented [srm13]: This activity with due date was be moved to the PPG workplan (FY14)

## 5. Division of Water

Commented [srm14]: Newly formatted section to incorporate all DOW issues into one section.

### A. APDES Program Capacity Building and Implementation

DEC will continue to develop its capacity to implement the APDES permitting and compliance programs, with assistance from EPA. The effort will focus on permitting, tribal and community involvement, as well as compliance and enforcement activities. Working together to build the APDES program capacity, including robust permitting and compliance programs, continues as a high priority.

DEC and EPA will:

- Keep each other informed of planned industry workshops or outreach opportunities regarding the APDES program.

DEC will:

- Provide EPA with draft templates and standard operating procedures and guidance documents for review and feedback.

EPA will:

- Inform DEC of NPDES training opportunities in permitting, compliance, and enforcement.

**CWA Action Plan – Integrated Report.** EPA's CWA Action Plan includes efforts to build robust and credible permitting and compliance programs, as well as to ensure

Commented [srm15]: In this section, Sharon took FY13 language that focused on C/E and included permitting.

consistent permitting decisions and enforcement actions across states to maintain a fair and level playing field for the regulated community and the public.

DEC and EPA will:

- Jointly develop an annual integrated NPDES/APDES work plan as defined in the CWA Action Plan and subsequent guidance. The work plan will be drafted by October 31, 2013 and will include stressor, priorities, capacity building, actions for integrated, available mechanisms to perform work between the two agencies, roles and responsibilities, and performance measures.
- **Ensure** that the CWA Action Plan Integrated Work Plan elements are not duplicative commitments agreed to in the Performance Partnership Grant work plan in order to avoid unnecessary and duplicative reporting.

**Commented [srm16]:** Previous conversations have suggested that the CWA action plan integrated work plan elements could be incorporated into the PPG workplan. More discussion needed.

**Permit Quality Review.** EPA will conduct a Permit Quality Review (PQR) assessment for 2013 - 2014.

DEC will:

- Participate in the PQR assessment scheduled for July 2013.
- Work with EPA to implement recommendations and address areas that need attention as identified in the SRF reports.

EPA will:

- Provide timely information on PQR guidance, training, and process.

### ***Tribal Communications.***

DEC will:

- Continue to provide early notification to potentially affected tribes of DEC's proposed permitting decisions.

EPA will:

- Provide information and technical assistance to DEC staff to support development of tribal communication plans and with incorporating traditional knowledge into the permitting process.
- Share information about APDES actions on request with Tribal governments through the Tribal environmental staff.

- Provide opportunities for DEC staff to share the model tribal communication plan at technical sessions in conjunction with large events, including but not limited to, the Alaska Forum on the Environment.

## B. Permit Issuance

**Current Permits.** An important measure of EPA and state program effectiveness is tracking the percentage of permits that have expired or are 'backlogged'. Backlog percentages are tracked nationally as performance measures. DEC believes the backlog in Alaska is larger than indicated by the national database, and that considerable time is needed to reduce the backlog. Both agencies remain committed to timely issuance of permits to reduce the number of backlogged permits. DEC and EPA's top priority is to issue permits that meet CWA requirements on timely basis in accordance with the agencies' permit issuance plans.

DEC and EPA will:

- Work cooperatively towards timely permit issuance and reduction of the permit backlog.
- Develop permit issuance plans for a cooperative effort to document and reduce the backlog. The plans will identify specific permits along with a timeframe for issuance.
- Update permit issuance plans, as necessary.
- Meet monthly, which includes quarterly in person meetings as budgets allow) to assess progress on permit issuance, conduct substantive issue discussions, and coordinate permit issuance efforts.

DEC will:

Commented [srm17]:

EPA will:

- Review and provide comments on draft APDES permits during the public notice period, with some exceptions.
- Review the seafood processors effluent limitation guidelines and ...
- Provide information and keep DEC apprised of revised or new policy issues and

Commented [srm18]: Mike L / Karen B – please provide language.

**Oil and Gas Coordination.** On October 31, 2012, EPA transferred the final phase, which included the oil and gas sector, of the NPDES program authority to DEC. EPA retains permitting authority for discharges to the OCS. EPA also retains jurisdiction of two permits issued by EPA prior to final program transfer and that are subject to ongoing legal appeals: Alyeska Ballast Water Treatment Plant and the state portion of the Beaufort Sea Exploration General Permit. Upon resolution of the appeals, authority of the permits will transfer to DEC.

In the process of developing permits associated with oil and gas activities, EPA and DEC will continue to coordinate closely, including completion of Ocean Discharge Criteria Evaluations (ODCEs), review and consideration of information from Traditional Knowledge and environmental monitoring programs, and coordination of outreach activities and tribal consultations. Continuity between federal and state wastewater discharge permits is a significant concern for industry, tribal governments, and other stakeholders.

EPA and DEC will:

- Continue to coordinate on the following oil and gas permits and activities:
  1. Cook Inlet Exploration General Permits
  2. Beaufort Exploration General Permit and Petition for Review
  3. Permitting for Geotechnical Investigations and Surveys in the Arctic
  4. Effluent Limitation Guidelines for the Oil and Gas Coastal Subcategory

### C. Compliance Program

To track progress in implementing the C&E program in FY14, EPA and DEC will prioritize efforts and use available mechanisms, such as State Review Framework, integrated NPDES work planning, work sharing, direct EPA enforcement, training, shadowing, etc. to increase the agencies' C&E programs' performance.

DEC and EPA will:

- Convene an annual NPDES planning session in accordance with EPA's Clean Water Act Action Plan.
- Meet quarterly, or more often as needed, to discuss program implementation activities.

**Commented [srm19]:** Sharon received edits from Jeff K on 6.7.13 some of which are in the APDES Capacity Development & Implementation section and CWA Action Plan section above.

Details were incorporated into the PPG workplan.

- **Develop** and share draft lists of anticipated NPDES and APDES inspection candidates to serve as the calendar year 2014 Compliance Monitoring Strategy Work Plan. The inspection lists will be consistent with EPA's Compliance Monitoring Strategy and state priorities. DEC and EPA will coordinate any changes to the final inspection schedules throughout the inspection year, preferably prior to the inspection.
- Share inspection results and planned enforcement actions.
- Identify EPA enforcement cases where DEC can participate in building the enforcement case or participate in calculating penalties.

**Commented [srm20]:** FY14 PPG already includes sharing draft lists by November 30, 2013, so Sharon did not duplicate that activity and due date here.

EPA will:

- Provide coaching and assistance to further develop Alaska's permitting and compliance programs, review and provide feedback on DEC's templates for tracking inspections and enforcement actions, timelines, and process for assuring that effective compliance and enforcement activities occur.
- Use available mechanisms, including direct enforcement actions where appropriate, to implement the CWA Action Plan provisions.

#### **D. Timely Revisions of State Water Quality Standards**

Water quality standards (WQS) are the foundation of Alaska's water protection and restoration efforts. DEC is required by the CWA to conduct a comprehensive review of Alaska's WQS every three years to integrate current science and technology. Before changes to the WQS can take effect for CWA purposes, they must be approved by EPA. DEC and EPA are committed to working together collaboratively to ensure that appropriate WQS are in place. Due to ongoing delays in approval, this priority needs immediate attention.

DEC and EPA will:

- Work together on development of anti-degradation implementation procedures as the highest priority for the Triennial Review. Other high priorities needing work may include ~~copper aquatic life criteria~~, ~~mixing zone regulations~~, ~~residues criteria~~, site specific criteria, use attainability analyses, and human health criteria- ~~(fish consumption)~~
- Work together to develop a schedule for resolving WQS issues.

- Work together early in the WQS revision process to identify the information, data, and justification that may be needed to support the timely approval of changes to the WQS.
- Work together to bring about the early involvement of NOAA-Fisheries and US Fish & Wildlife (Services) in standards revisions when an Endangered Species Act or Essential Fish Habitat consultation may be required.
- Work together as EPA completes Tribal government-to-government consultation on WQS review actions.

DEC will:

- Work on development of anti-degradation implementation procedures as the highest priority for the Triennial Review.
- Provide EPA an opportunity to review draft revisions and discuss their comments with DEC, with a goal of ensuring consistency with the ~~Clean Water Act~~CWA, prior to the public comment period.
- Work to meaningfully involve tribal and local government representatives in the development of the anti-degradation policy.

EPA will:

- Keep DEC informed of EPA plans and drafts for regulations affecting or implementing antidegradation policies.
- Continue to participate in the DEC Antidegradation Work Group.
- Work towards final actions on the mixing zone and residues WQS revisions already adopted by the state.
- Where appropriate, raise issues that may be unique to Alaska waters in national WQS policy discussions.
- Provide review of draft revisions to Alaska's WQS to ensure their consistency with the CWA.
- Provide assistance to DEC to develop a tribal involvement approach, similar to the APDES tribal communication protocol, with the assistance of DEC's APDES local and tribal government coordinator.

#### **E. Surface WQ Assessment, Restoration and Protection (Nonpoint Source)**

Nonpoint sources of pollution can contribute significantly to water pollution in Alaska. Controlling and preventing nonpoint source pollution is challenging and



requires the cooperation of local, state, and federal land managers to avoid costly waterbody restoration actions on polluted waters.

EPA and DEC will:

- Coordinate and implement activities that will control nonpoint source pollution and restore waters that are already impaired.
- Work together to find additional funding for the priorities identified through the Alaska Clean Water Actions process.

DEC will:

- Continue to adhere to the court order requiring completion of total maximum daily loads for two waterbodies.
- Submit a final 2014 Alaska Nonpoint Source Water Pollution Control Strategy.
  - Ensure water quality data collected by various program within DEC are forwarded to DEC's Water Quality Standards, Restoration, and Assessment Program.

**Commented [srm21]:** Details of submittal and due date put in PPG workplan

#### **F. Water Infrastructure**

DEC and EPA share an interest in improving environmental protection and public health by making low interest loans available to Alaskan communities and other eligible entities for financing drinking water, wastewater, stormwater, and water quality related projects. We also have a vested interest in providing sanitation facilities to the rural Alaska communities and Alaska Native communities to improve the health and sanitation conditions in these communities and villages. EPA and DEC invest significant funding in these two water infrastructure programs, which are vital to Alaskan communities.

**Commented [srm22]:** From Bill G.

This is Division of Water and Environmental Health issue, so the lettering/numbing may not be correct.

DEC and EPA will:

- Cooperate in performing an annual program review for the Clean Water and Drinking Water State Revolving Fund loan programs in order to assure that all state and federal requirements are being met, to identify areas where improvements can be made, and to recognize successful program implementation.
- Share information and conduct processes so that all available funding can be awarded each year.
- Abide by the 2006 three party Memorandum of Understanding.
- Follow the 2007 Alaska Native Village Management Control Policy.

- Complete an annual house count survey of all Village Safe Water eligible communities, in coordination with Indian Health Services, to determine the number of eligible homes, number of served homes and number of unserved homes to meet the requirements of the Office of Management and Budget.

## 5.6. Division of Air Quality

### A. Fairbanks Air Emissions - PM 2.5 Issues

The Fairbanks 24 hour PM2.5 nonattainment area (NAA) will require a focused effort and collaboration among major federal, state and local agencies to restore the area's air quality. Conditions and the sources that cause or contribute to air pollution in the Fairbanks NAA are not very well understood due to the extreme weather and complexity of sources. Efforts to solve the air quality problem will therefore require the EPA, DEC, USDOT, Fairbanks North Star Borough, the Department of Defense installations in the area, the community and industrial facilities in the Fairbanks area to work collaboratively to identify the sources and mechanisms that form air pollution in Fairbanks. Multiple technical studies and data gathering efforts are underway to understand how the activity in Fairbanks contributes to violations of the PM2.5 National Ambient Air Quality Standards (NAAQS). Once the sources and mechanisms of air pollution are identified, these constituents will need to work collaboratively to identify solutions that restore public health in the Fairbanks NAA. In-kind and funding resources, in addition to prioritization of the work needed to solve the problem in this area, will be critical to restoring air quality in this area.

DEC will:

- Conduct all studies necessary to quantify and characterize pollutant contribution and formation mechanisms to lead to violations of the air quality standards.
- Develop appropriate tools and analyze contribution from different sources to devise control strategies for the NAA which will restore the air quality standards
- Continue development of a State Implementation Plan and associated enforcing regulations in preparations for submission to EPA in SFY 2014.

EPA will:

- Provide in-kind and grant funding to prioritize PM2.5 work in Fairbanks.

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- Provide informal review and feedback on intermediate work products related to SIP development.
- Provide Clean Air Act and regulation related guidance in development of State Implementation Plan (SIP).
- Meet with community and elected officials to align interest in the community towards quickly restoring air quality and public health

#### **~~0. Bristol Bay Watershed Assessment Communications~~**

~~[NEED TEXT HERE]~~

~~DEC and EPA will:~~

- ~~[NEED TEXT HERE]~~
- ~~[NEED TEXT HERE]~~

~~EPA will:~~

- ~~[NEED TEXT HERE]~~
- ~~[NEED TEXT HERE]~~

~~DEC will:~~

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#### **~~0. Antidegradation~~**

- ~~[NEED TEXT HERE]~~
- ~~[NEED TEXT HERE]~~

#### **~~Enforcement Priorities~~**

- ~~[NEED TEXT HERE]~~
- ~~[NEED TEXT HERE]~~

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~~404 Program – Dredge and Fill Primacy~~~~5. Federal and State Budget Constraints~~~~5. Clean Water Act 319(h) Grant Management for Alaska's Nonpoint Source Program~~~~5. Clean Water Act 303(d) Issues – Impaired Water Body Listings.~~7. Air Permits and State Implementation Plans (SIPs)

DEC, through the Air Permits Program, is responsible for ensuring that air emissions from industrial operations in the state do not create unhealthy air. This is accomplished through a fee-based program for permitting actions and compliance assurance inspections. DEC will continue to implement a Title V air operating permit program in accordance with 40 CFR Part 70 and all other applicable requirements. DEC will continue to implement a PSD/NSR air permitting program in accordance with 40 CFR Part 51, Subpart I, and all other applicable requirements.

DEC implements Clean Air Act requirements through its State Implementation Plan (SIP) that includes regulations and plans designed to prevent and mitigate air pollution impacts in Alaska. DEC and EPA coordinate on and prioritize SIP projects to ensure that Alaska's plan is up to date and federally approvable. In addition to coordinating on SIP projects this year, plans by EPA Headquarters to develop SIP implementation guidance and rules related to the National Ambient Air Quality Standards (NAAQS) are an area of mutual interest. DEC and EPA will communicate as needed on these proposals to help ensure that DEC is aware of opportunities to provide timely input and concerns for consideration.

DEC will:

- Provide to EPA electronic notifications of all permits in draft, proposed and final stages based on regulatory requirements of responses for each program.

EPA will:

- Provide to DEC responses based on its review on Title V permits, PSD/NSR permits and on occasion minor source permits.
- For Alaska, EPA will discuss and set priorities for submitting and processing SIPs through coordination calls at least twice yearly.

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~~EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in "Indian Country" in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state's environmental laws and delegated federal environmental and public health protection programs. It is essential that EPA and DEC coordinate enforcement and compliance with each other.~~

**Commented [srm24]:** Moved this Compliance and Enforcement section

~~The EPA and DEC will coordinate enforcement and compliance with each other in a manner consistent with the May 1997 Agreement on Compliance Assurance Principles and the March 1988 Compliance Assurance and Evaluation Principles agreed to by the EPA Region 10 states and the EPA. The EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC's Enforcement Manual; (2) the Compliance Assurance Agreement between DEC's Air Permits Program and the EPA Office of Air; (3) the Compliance and Enforcement Strategy between DEC's Drinking Water Program and EPA Region 10's Office of Water and Watersheds Drinking Water Unit; and (4) the National Pollutant Discharge Elimination System Memorandum of Agreement between the State of Alaska and United States Environmental Protection Agency, Region 10 (Amended August 11, 2011).~~

#### **8. Report Bi-annually on progress on PPG Workplans**

By receiving bi-annual reports, DEC and EPA can gain a clearer understanding of the project status and how projects track against the workplan.

**Commented [srm25]:** This was in FY13 PPA but only referred to EPA reporting biannually. Was deleted in FY14. This is good to keep in.

DEC and EPA will:

- Report bi-annually on PPG workplan activities and measures.

## **VI. Performance Reporting and Evaluation**

DEC and EPA will report on the activities identified in this ~~agreement~~ Agreement semi-annually. Reports will be based on information supporting performance measures and program activity measures identified in this ~~agreement~~ Agreement outlining accomplishment, existing or potential problems, and suggestions for improvement. ~~The~~ EPA will schedule a report preview meeting with DEC to discuss the report and make appropriate adjustments.

## **VII. Dispute Resolution**

Parties to this agreement realize there may be different expectations and understandings of the terms of this agreement by each party from time-to-time.

Resolving those differences early will keep each party focused on the intent of the agreement and avoid difficult, time-consuming situations that disrupt healthy working relationships necessary to achieve mutual success.

The EPA and DEC agree to work issues at the lowest level possible, making reasonable efforts to clarify expectations and understandings. If those responsible for implementing activities and achieving expected performance are not able to resolve disagreements that prevent accomplishments mutually, they are authorized to elevate the matter to the next higher level of responsibility. They will notify their supervisor of this action and schedule a discussion among supervisors and affected staffs. This elevation process will continue up to the program director level. If a matter is not resolved before reaching the program director level, program directors will notify the agency head that they are engaged in resolving a conflict. Most issues will be resolved either before reaching this level or at the conclusions of the director elevation. However, significant issues may remain and will be addressed between the agency heads.